

Remarks

This amendment is responsive to the official action mailed December 10, 2007, and is accompanied by a Petition for Extension under 37 C.F.R. §1.136(a).

The invention concerns a shower installation that can be configured with inwardly-directed showerheads or nozzles to spray a showering person with an array of sprays from various directions. At the same time, the inventive shower installation couples simply and conveniently into the facilities that typically already are available in a conventional bath or shower area.

Conventional shower facilities have water lines that emerge from a building wall at a space from the floor. A fitting housing conventionally carries an operating element enabling the user to control the water flow, temperature or the like.

The inventive shower provides a continuous conduit in one or another of several inverted U shapes. One leg extends upwardly from the fitting housing, carrying water over an arc, into a second leg that carries the water downwardly. Side and overhead shower nozzles spray water at the person in the shower. By mounting the inventive shower arrangement to the wall and coupling it to the fitting housing and water supply, a shower facility that might have been limited to the familiar overhead shower is outfitted for an array of inwardly-directed sprays.

Claims 3 and 6-11 are pending and have been rejected as anticipated or obvious over several prior art references. By this amendment, applicant seeks to narrow the claims to certain preferred embodiments and to preclude a comparison of the elements of applicant's invention with complicated installations having conduits that run inside the building walls or external conduits that form complex cages. Although one might say that the prior art contains teachings of shower installations with scaffold-like arrays of pipes, there is no example in the prior art of an inverted U shape shower installation with a leg that couples to a fitting housing to

make a simple shower stall or shower room into a multiple-nozzle luxury shower in the manner claimed.

By this amendment, applicant has narrowed the claims. Independent claim 11 defines the supply of water to a continuous hollow section of the shower arrangement. This continuous hollow section consists essentially of two parallel pipe legs and a cross-member. The description of a continuous hollow section through leg 1, cross-member 4 and leg 3 can be found, for example, at paragraph [0035] as published. No new matter is presented.

The invention is now limited by claim 11 to a shower installation with two conduit legs and a bridging conduit cross-member, one leg being coupled to and extending upwardly from a fitting housing affixed to the wall and controlling a supply of water that is available at the wall, and the legs being affixed to shower room walls. Therefore, the prior art rejections of record are insufficient. The rejections are based on selectively citing pipe lengths that are alleged to be comparable to conduit sections of the claimed invention, but are found in prior art structures that lack applicant's simple inverted U shape and/or have distinctly different configurations of facilities, conduits and valves. The cited prior art as applied to this point fails to meet the invention claimed as a whole or to demonstrate that the invention claimed as a whole would have been obvious.

Claims 3 and 6-11 were rejected as anticipated by Kaiser (2336402), which teaches an array of four vertical corner legs, four horizontal floor pipes radiating from a central under-floor junction box to feed the legs and four horizontal ceiling pipes to feed an overhead showerhead from the legs. Kaiser does not teach or suggest the possibility or probable success of attempting a continuous hollow conduit wherein one leg extends upwardly from a fitting housing (defined as having a control element) provided at a water supply provided at a building wall to feed into a conduit that consists essentially of a U shape as described. Kaiser does not meet the invention claimed. Kaiser does not show that the person of ordinary skill would have the ability to adapt a structure to existing plumbing aspects as claimed so as

to provide a shower array from a U-shaped conduit coupled at one U-leg to the fitting housing.

According to the examiner's comments, Kaiser is deemed to have a fitting housing that encompasses a control element 34 associated with a valve mounted behind the surface of the wall, plus five lengths of connecting pipe from there to the junction box under the floor. The rejection does not aver that Kaiser discloses a fitting housing at an operating height and a conduit leg extending vertically from the fitting housing. Instead, an arbitrary selection of pipe sections is pointed out. Even in view of this arbitrary selection of pieces, the examiner does not go so far as to state that Kaiser has a fitting housing at an operating height and rising vertical leg, etc., as claimed. Instead the comments and associated illustrations in the official action provide that Kaiser discloses a portion of a "fitting housing" that is identified as the combination of the operating handle, the behind-the wall valve and associated distant other elements including connecting pipes, and under-floor junction box and a horizontal under-floor connector before arriving at a vertical leg.

There is no basis to assert that such a distributed collection of elements selected in hindsight are or remotely suggest a fitting housing with an operating element and the other aspects claimed. The collection of elements relied upon in the rejection include some parts that are behind the wall and some that are not, some that are at one wall and others that are at a different wall or at the floor, elements that have distinct functions other than manual control such as Kaiser's floor conduit spring valves, etc. There is no proper basis to assert that the person of ordinary skill could regard this distributed collection of elements as a fitting housing as claimed. Even if it was possible to make such a leap, the invention claimed as a whole is not met because Kaiser's arrangement does not involve a continuous hollow conduit consisting of a leg leading up from the alleged fitting housing, across a cross-member to a leg leading downwardly. Kaiser does not meet or suggest the invention defined by independent claim 11 as a whole.

The dependent claims are allowable by dependence on claim 11. Moreover, the dependent claims that recite the placement of the overhead shower in or out of the plane of the legs, the cross-member being in the plane of the legs or arched from the plane cannot be deemed met by selectively choosing for some claims only certain of the elongated elements of Kaiser's cage-like structure and ignoring others, then changing the selection to address other claims. The hollow conduit of the invention as now claimed consists essentially of an inverted U-shape with one leg rising along the wall from the fitting housing. The invention defined by claim 11 and by the dependent claims is not disclosed or suggested by Kaiser's cage of pipes.

Therefore, applicant requests reconsideration and withdrawal of the prior art rejections relying on Kaiser.

Claims 3 and 6-11 were alternatively considered anticipated by Schinle (5073996). Schinle teaches a free standing shower cubicle. In this case there are four columns in a rectilinear pattern containing spray heads. The reference teaches expressly at col. 1, lines 21-24 that a shower installation can be universal if it is separated from existing structures and made as a cubicle. There is no teaching of a conduit consisting essentially of a U-shape coupled to a fitting housing at a water coupling on a building wall. There is no suggestion of probable success by affixing all or any part of the disclosed cubicle to an existing wall, and to consider doing so is directly contrary to the teachings of the references. Schinle does not teach the invention claimed as a whole. There is no basis of record to consider the changes needed to modify Schinle to reach the claimed invention as being within the level of ordinary skill in the art or perceived by the person of ordinary skill as likely to be successful if attempted. Applicant requests reconsideration and withdrawal of the rejection over Schinle, which fails to anticipate the invention or to render it obvious.

Claims 3, 6-8, 10 and 11 were rejected as obvious from Sourdillon (FR 65990). In the discussion of Sourdillon, the official action appears to take the

position that Sourdillon discloses all the aspects claimed by applicant except mounting to the walls of a shower room. Reconsideration is requested.

Sourdillon's conduits 12, 13 provide hot and cold water that is mixed at the shower head ("d'eau chaude et d'eau froide" meaning "hot water and cold water"). Whereas the water to be sprayed needs to be warm, there is no logical basis to compare Sourdillon's hot water conduit and cold water conduit with a continuous conduit extending from a fitting housing to supply water to two legs and a cross-member as claimed. Neither of Sourdillon's conduits 12 or 13 can be deemed to supply water to the other of the conduits 12, 13. Both exclusively supply the shower head. There is no logical basis to believe that the person of ordinary skill would consider the possibility of a warm overhead showerhead coupled with a cold nozzle on one side and a hot nozzle on the other. There rejection of the claims based on Sourdillon is unwarranted and should be withdrawn.

According to the official action, the invention would be obviously met by mounting Sourdillon's arrangement on the surface of a wall. Reconsideration is requested. There is no aspect of Sourdillon apparent to the undersigned to disclose or suggest how such pipes are to be mounted. The illustrations are simply schematics showing the flow relationships obtained using two separate throttle valves (Fig. 1) or two ganged throttle valves (Figs. 2 -5). There is no disclosure of a fitting housing to supply water to an inverted U shape via one leg. There is no basis to conclude that the claimed invention would have been obvious.

According to the official action, applicant's prior amendment and arguments were considered insufficient to distinguish over the prior art as is applied in the latest official action. Claim 11 has now been amended, such that the prior art does not meet or lead routinely to the invention claimed as a whole. According to claim 11 the hollow water carrying conduit consists essentially of a U-shape. It is not a cage. A first pipe leg is permanently affixed with respect to the wall and extends upwardly from the fitting housing. The fitting housing is coupled to the supply of water at the wall and is the part with the operating element that controls the supply

of water. There is no proper basis to regard a random selection of pipes as the disclosure of a fitting housing as stated in the official action. There is certainly no proper basis to select some pipes at the rear of the shower enclosure, others at that bottom, some behind the wall, some under the floor, etc. These parts are not a "housing," which is defined in the dictionary to denote a case or enclosure as oppose to a distributed array of pipes that are coupled to and/or radiating from one another. If the examiner has a basis in the specification or in a reference publication to regard the term "housing" to include some other form of structure, applicant requests that such basis be made of record by suitable documentation and references.

There is no disclosure consisting essentially of a U-shaped continuous conduit used as the water carrier in a shower in the prior art, wherein one leg is coupled directly to and extends upwardly from a fitting housing to feed water to the conduit, and wherein the U-shaped conduit is attached to the shower wall(s). The present reliance on cage defining conduits with four legs, arrangements that don't have any comparable fitting housing or are cited for throttle valves, the present and prior reliance on references with independent columns and pipes associated with free standing bathtubs and the like, have all failed to disclose or suggest the concept of converting a bath with a hot/cold/on/off fitting housing from a conventional shower stall to a multi-nozzle shower array by affixing an inverted U-shaped continuous conduit to extend by one leg upward from the fitting housing and around the U-shape to feed water to plural nozzles thereon.

The claims have been amended to better define the invention over the prior art. The invention claimed as a whole is not found in the prior art. The amendments to the claims are supported by the original disclosure and overcome the grounds of rejection stated at length in the official action. There is no reasoned explanation for how a person of ordinary skill could be expected to perceive a probability of a successful outcome from the modifications to the prior art the might be needed to more nearly approach applicant's invention. Although the person of ordinary skill may be proficient at adding pipes and building pipes into cages and

arbors, there is no showing of any capacity routinely to convert a shower into a multi-nozzle array in the manner claimed. The differences between the invention and the prior art are such that the subject matter claimed, as a whole, is not shown to have been known or obvious.

Therefore, applicant requests reconsideration and allowance of claims 3 and 6-11 as amended.

Respectfully submitted,

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